

**MUNICIPALITY OF EMERSON-FRANKLIN
BY-LAW NO. 11-16**

Being a By-Law to provide for the regulation and control of animals within the Municipality of Emerson-Franklin; also known as the Animal Control Bylaw

WHEREAS the Municipal Act ("Act") provides as follows:

Spheres of jurisdiction

232(1) A council may pass By-Laws for Municipal purposes respecting the following matters:

- (a) the safety, health, protection and well-being of people, and the safety and protection of property;
- (k) wild and domestic animals and activities in relation to them, including By-Laws differentiating on the basis of sex, breed, size or weight;
- (0) the enforcement of By-Laws

Exercising By-law-making powers

232(2) Without limiting the generality of subsection (1), a council may in a By-Law passed under this Division

- (a) regulate or prohibit;
- (f) except where a right of appeal is already provided in this or any other Act, provide for an appeal and the body that is to decide the appeal, and related matters.

Content of By-laws under clause 232 (1)(0)

236(1) Without limiting the generality of clause 232(1)(0) (enforcement of By-Laws), a By-Law passed under that clause may include provisions

- (a) providing for procedures, including inspections, for determining whether By-Laws are being complied with; and
- (b) remedying contravention of By-Laws, including
 - (i) creating offences,
 - (ii) subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - (iii) providing that an amount owing under sub clause (ii) may be collected in any manner in which a tax may be collected or enforced under this Act
 - (iv) seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles or other things related to a contravention,
 - (v) charging and collecting costs incurred in respect of acting under sub-clause (iv),
 - (vi) imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.

AND WHEREAS section 5(1)(2)(3) of the Animal Liability Act provides, in part as follows:

Animals not to run at large

5(1) Except when permitted by a municipal By-Law passed in accordance with The Municipal Act or a By-Law of a local government district passed in accordance with The Local Government Districts Act, no owner or person in charge of an animal shall allow it to run at large.

By-Law does not limit owner's liability

5(2) An owner's liability under section 2 is not limited or otherwise affected by a By-Law referred to in subsection (1).

Municipality is not liable by reason only of making By-Law

5(3) A Municipality that makes a By-Law referred to in subsection (1) is not liable, by reason only of having made the By-Law, for damages for any harm that an animal causes to a person or property while running at large in the manner permitted under the By-Law.

AND WHEREAS, section 31(1)(2) of the Diseases and Dead Bodies Regulation, 338/88R of the Public Health Act provides in part as follows:

31(1) In the event of an animal bite to a person in which a physician determines that there is a possibility of transmission of rabies, the person bitten or any duly qualified medical practitioner or registered nurse attending that person shall forthwith notify the medical officer of health or the Animal Control Officer of the Municipality in which the biting incident occurred or a Peace Officer of the details of the biting incident.

31(2) An Animal Control Officer or Peace Officer receiving a report pursuant to subsection (1) shall notify the medical officer of health of the details of the report at the earliest possible opportunity.

AND WHEREAS, section 6(1) of the Summary Convictions Act provides in part as follows:

6(1) Where a fine or imprisonment or both, are prescribed for a contravention of any Act of the Legislature, or of any by-law of a municipality, or of any reputation, the fine or costs or imprisonment, or both, may be recovered or enforced, or recovered and enforced on summary conviction before a justice.

AND WHEREAS the Council of the Municipality of Emerson-Franklin enacts as a by-law the following:

Part I: Definitions

1(1) In this By-Law:

"Animal Control Officer" means the person appointed by Council to enforce the provisions of this By-Law and includes any person acting as an assistant to, or under the direction of, the Animal Control Officer.

"Dangerous Animal" means an animal that has on at least one occasion attacked a person, or another animal with sufficient severity to require medical or veterinary treatment. A Dangerous Animal does not include wildlife as defined under the Wildlife Act.

"Dog" means a domestic dog (*Canis lupus familiaris*), but does not include hybrids of domestic dogs as a result of crossbreeding.

"Livestock" means any animals kept for farming or other purposes whether or not intended for profit and includes among others:

- (i) dairy and beef cattle
- (ii) swine including wild boar, goats, sheep, bison, horses
- (iii) all cervids on game production farms
- (iv) all of the family *Camelidae* (Llamas, Alpacas)
- (v) all domestic poultry (chickens, turkeys, ducks, geese) and specialty fowl (guinea fowls etc.).

"Owner" means a person who owns, keeps or harbors an animal and a person who permits or allows a person to keep or harbor an animal upon premises owned, leased or occupied by that person.

"Pound" means a place designated by Council for the purpose of impounding or confining of an animal under this By-Law.

"Pound keeper" means a person or organization that is responsible for the maintenance of a pound for the keeping of animals under this By-Law.

"Restricted animal" means:

- a) all members of the order Primate excepting human beings;
- b) all members of the order Carnivora except domestic dogs (*Canis lupus familiaris*), domestic cats (*Fe/is silvestris catus*) and domestic ferrets (*Mustela putorius furo*), and includes all hybrids of domestic dogs and domestic cats;
- c) all members of the order Crocodylia;
- d) all constrictor snakes and venomous reptiles including, but not limited to:
 - i) all members of the family Boidea (pythons, boa);
 - ii) all members of the family Colubridae (venom snakes);
 - iii) all members of the family Elapidae (cobras and sea snakes);
 - iv) all members of the family Viperidae (vipers);
 - v) all members of the family Crotalidae (pit vipers);
 - vi) all members of the family Helodermatidae (beaded and venomous lizards); and
 - vii) all members of the family Varanidae (monitors); and
- e) all venomous amphibians including, but not limited to:
 - i) all members of the family Bufonidae (true toads) ; and
 - ii) all members of the family Dendrobatidae (poison frogs);
- f) and includes all hybrids of any of the animals so listed in (a) through (e) above.

"Run at large" means an animal that is not under control either by being:

- a) in direct and continuous charge of a person competent to control it; or
- b) securely confined within an enclosure; or
- c) securely fastened so that it is unable to roam at will

"Town Sites" means the Town sites referred to as General Development Zones in the Municipal Zoning By-Law including but not limited to: Emerson, Dominion City, Ridgeville, Arnaud, Rosa, Roseau River and Tolstoi

Part 11: Animal Control Officer

- 2(1) The position of Animal Control Officer is established. The Animal Control Officer shall be the person appointed by municipal resolution.
- 2(2) The Animal Control Officer shall have all powers, duties, discretion and functions of a designated officer set out in the Act and is authorized to:
 - a) administer and enforce this By-law and the Act, and
 - b) act as a designated officer for the purposes of this By-law
- 2(3) The Animal Control Officer may make orders and may enter property and buildings to carry out the administration and enforcement of this By-law including for determining the actions or measures a person must take in connection with any matter under this By-law, whether the actions or measures have been taken, to prevent the contravention of this By-law or any order made under this By-law, to remedy a contravention of this By-law and to prevent an occurrence or re-occurrence of a contravention.
- 2(4) In respect of complaints, the Animal Control Officer may conduct inspections for the purpose of determining compliance with this By-law, determine compliance with this By-law following an inspection, and dismiss the complaint if there is compliance with this By-law.
- 2(5) The *Animal Control Officer* shall carry out such duties and shall be remunerated thereof as provided in the agreement appointing him, which duties shall include, without limiting the generality of the foregoing, the following:
 - (a) establishment of and maintenance of a pound for the confinement of animals apprehended pursuant to any provision of this By-Law;
 - (b) apprehension and confinement of any animal which is running at large and which is not properly licensed and tagged;

- (c) care and protection of any animal during the period of its confinement after apprehension;
- (d) sale or destruction of any animal/pet which is not claimed by its owner or for which the owner has not paid those costs chargeable to the owner of a pet after its apprehension
- (e) collection and payment to the municipality of the fines and costs collected from the owner who claims a pet which has been apprehended within the limits of the Municipality;
- (f) Notification to the owner of a pet confined after apprehension, and, where the owner cannot be ascertained, preparation and posting in the general office of the notice a notice describing the pet impounded, the date of its apprehension and confinement, and the date after which said pet will be destroyed or sold unless claimed.

2(6)

- (a) Where a pet which is properly licensed and tagged is found running at large, the **Animal Control Officer**:
 - i. may issue a warning to its owner, advising of the breach of Clause 4(a) of this By-Law; or
 - ii. apprehend and confine the pet, and advise the owner, as soon as reasonably possible, of the fact of apprehension and confinement.
- (b) Where the owner of a pet apprehended and confined pursuant to this By-Law desires to reclaim the pet, he shall pay to the **Animal Control Officer** applicable charges as per the license and impoundment fees prescribed in Schedule "A" of this By-Law.
- (c) Where a pet not properly licensed and tagged is found running at large, its owner may reclaim it upon payment of the costs as per the license and impoundment fees prescribed in Schedule "A" of this By-Law.
- (d) Where the owner of a pet refuses to pay the costs herein before mentioned, or where the owner of the pet cannot be ascertained within 3 working days of the notice of apprehension the **Animal Control Officer** may:
 - iii. sell the pet to any person who will pay the applicable costs and charges, or
 - iv. destroy the pet and dispose of the carcass in the manner directed by Council.

Part III: Domestic pets

(i) Kennels

3(1) Breeders, be they Commercial or Hobby and or Commercial Kennels, must have approval from Council prior to beginning of operations, as well as satisfying all provincial licensing requirements as laid out in the Manitoba Animal Care Act Part 5.

(ii) Responsibility of Owners regarding dogs:

4(1) No Owner of a dog shall:

- a) permit it to run at large;
- b) permit it to bark or howl or in any other manner become a nuisance and disturb the quiet of any person;
- c) permit it to defecate on any public or private property other than the Owner's property. Where a dog defecates on property other than the Owner's property, the Owner shall immediately remove the excrement;
- d) permit it to damage public or private property other than the Owner's property;
- e) harbor or keep a dangerous dog except in accordance with Part IV of this By-law.
- f) permit it to pursue, bite or wound any person or animal,
- g) permit it on a school ground or playground;
- h) permit it on a public park or public reserve unless the dog is on a leash no longer than 6 feet and in the actual custody and control of the Owner, unless the park or reserve is designated to allow dogs to be exempted from being on a leash;
- i) permit it to upset waste receptacles and scatter the contents in or about a street, lane or other public or private property.

4(2) An Owner of a dog that does any of the actions described in subsection (1) shall be deemed to have permitted the dog to do the action.

4(3) An Owner whose sight is impaired, is blind or who is deaf and who owns a registered guide dog or who is being assisted by a guide dog is not subject to the restrictions imposed under subsections (1)(c) or (h).

- 4(4) An Owner is responsible for all normal care including veterinary care, feeding, housing and fees associated with the selling, euthanasia and disposal of an animal when the animal is no longer desired as a companion animal.

(iii) Special restrictions regarding dogs

- 5(1) An Owner of a female dog in heat shall confine it on the Owner's premises or on a person's premises having control of the dog for the period of time it is in heat. Such confinement shall be in such a manner as to prevent contact with other dogs except those of the Owner. As an alternative to such confinement, the Owner may take it to a licensed kennel for the period of time it is in heat.

(iv) Restriction on the number of dogs

- 6(1) No Owner shall own, harbor, keep, or possess on their premises more than three dogs in Town Sites over the age of four months.
- 6(2) Subsection (1) does not apply to an Owner's premises zoned for agricultural uses in the Municipal zoning by-law provided however, that where, in the discretion of the Animal Control Officer, the number of cats or dogs on any such premises constitutes a danger to the public or to the animals, the Animal Control Officer may exercise his discretion to apprehend and impound all or some of the animals.
- 6(3) Subsection (2) shall not apply to a person who owns, harbours, keeps or has in his possession or control on his premises, more than the maximum of dogs outlined if they were in possession of such animals prior to the adoption of this by-law. Any person exceeding the number of animals in his possession at the passing of this by-law must eventually fall within the guidelines of subsection 6(2) if any of the animals are adopted, given away or die.

(v) Licensing- Arnaud, Dominion City, Emerson, Ridgeville, Rosa, Roseau River, Tolstoi

- 6(3) The owner of every dog kept within the Town Sites of the Municipality shall on or before the first day of January in each calendar year, or within twenty-one days of taking up residence or becoming a new dog owner, obtain from the Municipal office, license and tag for each dog and shall supply such information respecting each dog as the Municipality may require. Each such license shall expire on the 31st day of December next after the license became effective.
- 6(4) No license or tag issued pursuant to the provisions hereof shall be transferable from one dog to another and no refund shall be made on any paid up dog license fee because of death or sale of the dog or upon the owner leaving the township before the expiration of the license period.
- 6(5) Every owner of a dangerous dog must produce, before a license is issued, evidence that he has in place a comprehensive general liability insurance policy including coverage for damage or injury caused by his dog covering the balance of the license year with a minimum limit of liability of \$500,000.00 per occurrence.
- 6(7) The Municipality shall supply each owner who has paid the appropriate license fee and provided the necessary particulars of registration with a tag for each dog so licensed and the owner shall secure each tag so issued securely to a collar or harness worn by the dog.
- 6(8) Where a change of ownership of a dog licensed hereunder occurs during the license year, the new owner may have the current license transferred to his name upon payment to the municipality of a transfer fee of \$2.00.
- 6(9) No license or tag shall be issued by the Municipality unless the owner produces a certificate from a licensed veterinarian surgeon:
- a) in the case of every dog over the age of three months, certifying that the dog has been inoculated for rabies on a date no more than two years prior to December 31st of the current year;

- b) in the case of a female dog, certifying that she has been spayed, if the owner so implies;
 - c) in the case of a male dog certifying that it has been neutered, if the owner so implies;
- 6(10) In the event of the loss or mutilation of a tag, the owner shall obtain a replacement for same from the municipality upon payment of a fee of five (5) dollars;
- 6(11) No tag shall be affixed to the collar or harness of any dog except the tag issued by the Municipality for the current year, or such other tags as may be required to be displayed pursuant to the laws of Manitoba or Canada.

(vi) License Fee

- 6(12) The owner of every dog shall pay to the Municipality at the time the license is obtained, an annual license fee for each for each dog license as herein provided:
- a) for every male or spayed female dog - \$5.00
 - b) for every non spayed female dog - \$10.00
- 6(13) No license fee or tag charge shall be made for any dog
- a) which has not been weaned: or;
 - b) which has been trained and which is used or owned by a sightless person as a dog guide.
- 6(14) The annual license fee for every dangerous dog shall be \$200 which shall expire on the 31st day of December next after the license becomes effective and every dangerous dog shall obtain a new license tag each year.
- 6(15) The owner of any dog which has been declared to be dangerous pursuant to Part IV shall no later than the tenth (10) day after receiving notice from the Animal Control Officer that his dog has been declared to be dangerous obtain a license for the remainder of the license year upon pay of the following:
- a) during the period from January 1 to March 31, \$200;
 - b) during the period from April 1 to June 30, \$150;
 - c) during the period from July 1 to September 30, \$100;
 - d) during the period from October 1 to December 31, \$50
- 6(16) Where a change of ownership of a dog licensed hereunder occurs during the license transferred to his name upon payment to the municipality of a transfer fee of \$2.00

Part IV: Dangerous Animals

- 7(1) Where the Animal Control Officer has reason to believe that an animal has caused or is likely to cause serious damage or injury; he shall hold a hearing to determine whether or not the animal should be declared to be dangerous under this By-law.
- 7(2) The Animal Control Officer shall give notice of the hearing to the Owner of the animal at least 10 days in advance of the hearing. The notice shall include:
- a) a statement of the time, place and purpose of the hearing;
 - b) a copy of the dangerous animal section of this By-Law;
 - c) a statement that if the Owner does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding.
- 7(3) The Owner may appear at the hearing with or without counsel. The Owner is entitled to hear the material presented at the hearing and to inspect any documents filed.
- 7(4) Where the Owner does not attend the hearing, having been given notice as provided in this section, the matter may be dealt with in their absence and the Owner shall not be entitled to any further notice in the proceeding.
- 7(4) Within 7 days of the hearing, the Animal Control Officer:

- a) shall make an order declaring the animal to be dangerous if in the Animal Control Officer's opinion the animal:
 - i) has caused injury to a person without provocation,
 - ii) has, while off its Owner's property seriously injured or killed a domestic animal without provocation; or
 - iii) is kept, harbored or used primarily for the purpose of guarding property and is not a police service dog owned by a government law enforcement agency.
 - b) may make an order declaring the animal to be dangerous if, in the Animal Control Officer's opinion, it is likely to cause serious damage or injury, taking the following factors into account:
 - i) whether the animal has bitten, wounded or injured any person or animal;
 - ii) the circumstances surrounding any previous biting or wounding incidents; and
 - iii) whether the animal, when unprovoked, has shown a tendency to pursue, chase or approach in a menacing fashion, a person upon the street, sidewalk or any public or private property;
 - c) shall provide the Owner with a copy of the order.
- 7(5) The Owner may, within 14 days of the date of the order, file an appeal of the order with the Chief Administrative Officer.
- 7(6) Where an appeal is filed, Council shall hold a hearing to consider the Animal Control Officer's order. The procedure set out in this section for the hearing before the Animal Control Officer shall apply to the hearing before Council.
- 7(7) Following the hearing, Council shall determine whether the order of the Animal Control Officer should be confirmed, varied, substituted or cancelled.
- 7(8) The decision of Council on an appeal under this subsection shall be final.
- 7(9) An Owner who receives a notice from the Animal Control Officer under this section shall ensure that the animal remains confined upon the Owner's premises pending the final outcome of the hearing. This restriction does not apply if the animal is impounded, or if the Animal Control Officer receives written confirmation from a licensed veterinary surgeon that the dog animal been placed in custody pending outcome of the hearing.
- 7(10) The Owner of an animal which has been declared to be dangerous under this section shall:
- a) obtain a permit for a dangerous animal and pay the fee as set out in Schedule A.
 - b) ensure that the animal, while on private property,
 - i) is kept either securely confined indoors or in a securely enclosed and locked pen, structure or compound which: is capable of preventing the entry of young children and preventing the animal from escaping;
 - ii) has minimum dimensions of at least 5 feet by 10 feet;
 - iii) has secure sides; and
 - iv) provides protection from the elements for the animal.
 - c) permit the animal upon public property only if it is muzzled, restrained by a chain or leash not exceeding 6 feet in length and under the control of a responsible person.
 - d) display at each entrance to the property or building in or upon which the animal is kept a sign stating: WARNING: BEWARE OF DANGEROUS ANIMAL. The sign shall be posted in such a manner that it cannot be removed easily by passersby and will be visible and capable of being read from the sidewalk or street and land, if any;

- e) within two working days of selling or giving away the animal, provide the Animal Control Officer with the name, address and telephone number of the new owner;
 - f) advise the Animal Control Officer within two working days of the death of the animal;
 - g) advise the Animal Control Officer forthwith if the animal is loose or has bitten or attacked any person or animal;
 - h) maintain in force to the satisfaction of the Animal Control Officer a comprehensive liability insurance policy including coverage for damage or injury caused by the animal with a minimum limit of liability of \$500,000.00 per occurrence;
 - i) comply with any other condition imposed under the order or by Council.
- 7(11) No person shall remove a sign posted under subsection (1) without having first obtained the permission of the Animal Control Officer.

Part V: Livestock

- 8(1) No Owner shall harbor, keep, or possess livestock on their premises, unless the use of the premises for this purpose is permitted in the Municipal zoning by-law.
- 8(2) No Owner shall permit livestock to run at large within the Municipality. When livestock is found running at large, its Owner shall be deemed to have permitted the livestock to run at large.
- 8(3) The Animal Control Officer may establish a temporary or permanent premises for the confinement of livestock found running at large. This may include premises where the apprehension took place, and the owner of such place or other such person as may be authorized shall provide care for the livestock.
- 8(4) Where livestock is impounded, the Animal Control Officer shall post notice of the impoundment at the municipal office and website. The notice shall describe the livestock including any identifying tags, marks or brands, the day of impoundment, along with the location within the Municipality where the livestock were found.
- 8(5) If the identity of the Owner is known, the Animal Control Officer shall give the Owner a copy of the notice.
- 8(6) The Owner of the livestock shall be entitled to the return of the livestock upon payment of the Municipal costs incurred in apprehending and impounding the livestock.
- 8(7) If no person claims the livestock within 10 days of the date of the notice, or if the Owner has not paid the costs and redeemed the livestock the Animal Control Officer may sell the livestock, the proceeds of which shall be applied against the Municipal costs set out in subsection (6), with any remainder sent to the Owner if known.

Part VI: Restricted animals

- 9(1) No Owner shall keep, harbor or possess a restricted animal, unless they have applied for and received permission to do so under this section.
- 9(2) An Owner who wishes to obtain permission to keep a restricted animal may apply to Council in such form and accompanied by such supporting material as Council may require and the upon payment of the fee set out in Schedule A.
- 9(3) On receipt of an application Council shall:
 - a) Fix a date for the hearing of the application which shall be not later than 45 days after the date of the filing of the application.
 - b) At least 14 days before the date of the hearing send a notice showing the time and place of the hearing to the applicant.

- c) At least 14 days before the date of the hearing send a notice to owners of property located within 100 meters of the property in respect of which the application is being made.
- 9(4) On the date and place stated in the notice receive representations from the applicant and any other persons who desire to make representation.
- 9(5) On completion of the hearing and consideration of the matter, within 10 days of the hearing, Council by order:
 - a) reject the application and so order the applicant to sell or dispose of the restricted animal within a specified length of time.
 - b) permit the keeping of the restricted animal, on such terms and conditions as Council sets out if Council is satisfied that:
 - i) the general environment, amenity, and convenience of the community as a whole will not be adversely affected, and
 - ii) the general environment, amenity, and convenience and value of adjoining properties will not be adversely affected.
 - c) Council shall send a copy of its order to the applicant and to any person who made a representation.
- 9(6) An order made under this section is final and not subject to appeal.
- 9(7) Council may revoke an order made under this section for failure to comply with the conditions of the order.
- 9(8) An Owner wishing to change the conditions of the permission issued by Council under this section, shall apply to Council to Change the conditions. The procedure for issuing the original permission set out in this subsection shall apply.
- 9(9) An Owner who is keeping, harboring or possessing a restricted animal in the Municipality at the time that this By-Law comes into force shall apply to Council within 30 days from the coming into force of this By-Law for permission to keep the restricted animal, or shall within the 30 days dispose of the restricted animal. Council may grant a longer period of time as necessary in any such cases where permission has been applied for but not yet decided.

Part VII: Administration, Enforcement and Penalties

- 10(1) In addition to the authority set out in section 2(3) and (4) the Animal Control Officer may issue a Notice of Inspection as set out in Schedule C, issue Common Offence Notices, make orders and enter property and buildings to carry out the administration and enforcement of this By-law.

(i) Seizure, Impoundment and Appeal

- 10(2) The Animal Control Officer may seize and impound an animal in enforcing this By-law. Following the seizure, the Animal Control Officer shall take the animal to the pound designated by the Municipality for this purpose. The Animal Control Officer shall, if the Owner of the animal is known to the Animal Control Officer, notify the Owner that the animal has been seized and impounded, that the animal may be redeemed from impoundment on the Owner meeting certain terms, and if the animal is not redeemed within three (working) days of being impounded, the animal may be disposed of by the Municipality. Such notice is met if the Animal Control Officer provides the notice to the Owner in person or leaves the notice with an adult at an address where the Owner resides or is employed. If the Owner is unknown, the Animal Control Officer shall post a copy of the notice of impoundment in the municipal office and on the website.

(ii) Incidents relating to responsibilities Sections 4, 5, 6

- 10(3) An Owner of an animal seized and impounded by the Animal Control Officer in enforcing this By-law, may within 3 days of the seizure and impoundment and upon payment of the appeal fee set out in Schedule A, file an appeal of the seizure and impoundment with the Chief Administrative Officer.

- 10(4) Where an appeal is filed, Council shall hold a hearing to consider the Animal Control Officer's seizure and impoundment.
- 10(5) The Chief Administrative Officer shall give notice of the hearing to the Owner in advance of the hearing. The notice shall include: a statement of the time, place and purpose of the hearing; and a statement that if the owner does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding
- 10(6) The Owner may appear at the hearing with or without counsel. The Owner is entitled to hear the material presented at the hearing and to inspect any documents filed.
- 10(7) Where the Owner does not attend the hearing, having been given notice as provided in this section, the matter may be dealt with in their absence and the Owner shall not be entitled to any further notice in the proceeding.
- 10(8) Following the hearing, Council shall determine and decide any matter respecting the seizure and impoundment of the animal by the Animal Control Officer, including whether the seizure and impoundment should be confirmed, varied, substituted or cancelled.
- 10(9) The decision of Council on an appeal under this section shall be final. The disposition of the animal is suspended for the period of the appeal and until the decision of Council.
- 10(10) The right of appeal set out in sections 10(3-9) does not apply to the seizure of a dangerous animal under section 10(18).
- 10(11) An Owner of an animal may redeem the animal from impoundment by applying to the Animal Control Officer within three days of being impounded. Upon payment of the fees set out in Schedule A and showing proof of vaccination, the Animal Control Officer shall instruct the pound to release the animal.
- 10(12) If an Owner of an animal and if known does not redeem the animal from impoundment, the fees set out in Schedule A are an amount owing to the Municipality by the Owner.
 - a) There is no right of an Owner when known to redeem an animal after the third impoundment.

(iii) Biting Incident

- 10(13) Despite section 10(11), a dog impounded in respect of a biting incident, shall be impounded for a minimum 10 day period unless the Owner shall pay all fees and costs associated with seizure and impoundment set out in Schedule A and provides information sufficient to the Animal Control Officer of:
 - a) proof of a rabies vaccination within 2 years of the date of the bite.
 - b) that the Owner shall take measures to ensure the dog is quarantined on their premises to avoid all direct contact from other animals and persons excepting the owner and confined in such a manner to prevent escapes.
 - c) that the Owner shall post the premises at the entrance and at the area of confinement signs which read "Beware Dog Bites".
 - d) that the Owner shall report to the Animal Control Officer and/or submit the dog for veterinary examination at such time as required by the Animal Control Officer.
- 10(14) If the dog dies while impounded, the Animal Control Officer shall submit its head to the Canadian Food Inspection Agency for a rabies examination.
- 10(15) The Animal Control Officer shall keep a record of all bite incidents.
- 10(16) In the event of an animal bite to a person in which a physician determines that there is a possibility of transmission of rabies, the Animal Control Officer shall notify the medical officer of health of the biting incident.

(iv) Dangerous animal

- 10(17) Despite section 10(2), if an Owner has not complied with a term or condition of a dangerous animal permit or with section 7, the Animal Control Officer may seize the animal and destroy it without impounding it for the 3 day period. The Animal Control Officer shall notify the Owner that the animal has been seized and destroyed. Such notice is met if the Animal Control Officer provides the notice to the Owner in person or leaves the notice with an adult at an address where the Owner resides or is employed.
- 10(18) If the Animal Control Officer takes the actions set out in subsection 10(10), the fees set out in Schedule A are an amount owing to the Town by the Owner.

(v) Interference with enforcement

- 11(1) No person may interfere with, obstruct or attempt to interfere with or obstruct the Animal Control Officer, or any person carrying out the administration and enforcement of this By-law. The Owner, the registered owner of property or a person renting or leasing property shall assist the Animal Control Officer in seizing and impounding their animal or an animal found on their property. An Owner shall supply such information that the Animal Control Officer requests for the administration and enforcement of this By-law.
- 11(2) No person shall, without the permission of the Animal Control Officer, remove or attempt to remove an animal from the place that it is impounded.

(vi) Enforcement by the public

- 12(1) Any person may apprehend at his or her own risk and confine a stray animal which is at large on their property. Immediately upon confining the animal, the person shall notify the Animal Control Officer or the Chief Administrative Officer of the Town of the confinement. The Animal Control Officer shall as soon as practical attend upon the premises and take possession of the animal.
- 12(2) The Municipal is not liable for any injury or property damage sustained by any person while apprehending an animal running at large on their property.

(vii) Offences

- 13(1) A person who contravenes sections 3, 4, 5 or 6- dogs is guilty of an offence and is liable on summary conviction:
- a) to a fine of not less than \$50.00 and not more than \$250.00 for a first offence,
 - b) to a fine of not less than \$100.00 and not more than \$500.00 for the second offence or any subsequent offence within 12 months of the first offence.
- 13(2) A person who contravenes section 7 (dangerous animals) is guilty of an offence and is liable on summary conviction:
- a) to a fine of not less than \$250.00 and not more than \$1000.00 for a first offence,
 - b) to a fine of not less than \$500.00 and not more than \$1000.00 for the second offence or any subsequent offence within 12 months of the first offence.
- 13(3) A person who contravenes section 8 (livestock) is guilty of an offence and is liable on summary conviction:
- a) to a fine of not less than \$250.00 and not more than \$1000.00 for a first offence,
 - b) to a fine of not less than \$500.00 and not more than \$1000.00 for the second offence or any subsequent offence within 12 months of the first offence.
- 13(4) A person who contravenes section 9 (restricted animals) is guilty of an offence and is liable on summary conviction:
- a) to a fine of not less than \$250.00 and not more than \$1000.00 for a first offence,
 - b) to a fine of not less than \$500.00 and not more than \$1000.00 for the second offence or any subsequent offence within 12 months of the first offence.

- 13(5) A person who contravenes section 11 (interferes with or obstructs the duties of an Animal Control Officer or any other person authorized under this By-Law, or who unlawfully enters any premises where impounded animals are kept or removes any animal impounded from such premises) or any other section not noted in sub-sections 13(1), (2), (3) or (4) is guilty of an offence and liable, on summary conviction:
- a) to a fine of not less than \$500.00 and not more than \$1000.00, or to imprisonment for a term of not more than 30 days for the first offence,
 - b) to a fine of not less than \$750.00 and not more than \$1000.00, or to imprisonment of not more than 3 months for any subsequent offence.

(viii) Transitional

- 14(1) Bylaw 23-15 is repealed.

DONE AND PASSED as a By-Law of the Municipality of Emerson-Franklin by the Reeve and Council in open session assembled this 14th day of June, 2016.

Read a first time: May 10th, 2016

Read a second time : May 10th, 2016

Read a third time : June 14th, 2016

Reeve Greg Janzen

C.A.O. Tracey French

Schedule of License and Impoundment Fees
Schedule "A" to By-Law No. 11-16

Annual License Fee for each male or spayed female dog.....	\$5.00
Annual License Fee for unspayed female dog	\$10.00
Transfer of License Fee.....	\$2.00

Permit Fees: (Annual Fee) January 1st to December 31st

For each "Dangerous" animal	\$200.00
(as deemed by council)	
Restricted Animal Application Fee	\$200.00
(Requires council approval)	
Dog Kennel Application Fee.....	\$200.00
(Requires council approval)	

Impoundment and Associated Fees:

For first impoundment	\$50.00
For each day of impoundment add.....	\$25.00/day for dogs
For second impoundment.....	\$100.00
(if it occurs within 12 months of the first impoundment)	
For each day of impoundment	\$25.00/day for dogs
For third impoundment	\$200.00
(if it occurs within 12 months of the first Impoundment)	
For each day of impoundment add.....	\$25.00/day for dogs
Animal euthanasia and disposal by Animal Control Officer	\$150.00
For voluntary impoundment of biting dogs or cats.....	\$50.00
For each day of impoundment add.....	\$25.00/day for dogs

Appeal Fee

Recovery of actual costs of administration included seizure and impoundment fees

Impoundment fees and/or fines for Livestock or Restricted Animals:

Recovery of actual costs to the Municipality.

**NOTICE OF IMPOUNDMENT
FOR MUNICIPALITY OF EMERSON-FRANKLIN
Schedule "B" to By-Law No. 11-16**

Per (Name & address of Owner):	
Time of Apprehension:	
Location Animal Apprehended:	
Place of Impoundment:	
Hour of Operation of Pound	
Phone # of Pound	
Daily Pound Fee	
Impoundment Fee	
Method of Payment Required	
Day the animal will be sold or destroyed	

Date: _____ Animal Control Officer: _____

Signature: _____

NOTICE OF INSPECTION
Schedule "C" of By-Law No. 11-16

Name of Owner: _____ Telephone: _____

Address: _____ Postal Code: _____

Location of Premises: _____

Nature of Complaint: _____

Description of Animals Theron: _____

Actions Taken of Recommendations: _____

Pursuant to the Municipality of Emerson-Franklin Animal Control By law 23-15, I did conduct an inspection of the conditions of and for the animals indicated above on the said indicated premises. And further, I hereby certify that I am duly appointed Animal Control Officer under the Bylaw.

Date: _____ Time: _____ Name: _____

Telephone: _____ Cellphone: _____ Signature: _____

Report to Follow Report Left at Premises Impoundment

Require Further Information Complaint Unjustified

Original Copy – Municipal Office Copy 2 – Owner Copy 3 – Animal Control Officer

**Recommended Fines for Animal Control Bylaw Offences Using the Common
Offence Notice
Schedule “D” of By-Law No. 11-16**

Provision of By-law	Description of Offence	Suggested Fine 1 st Offence	Suggested Fine 2 nd Offence
4(1)(a)	Permitting an animal to run at large (specify area)	\$50	\$100
4(1)(b)	Permitting a dog to bark or howl so as to unduly disturb the quiet of a person in the area.	\$50	\$100
4(1)(c)	Permitting a dog to defecate on public or private property that is not owned by the owner or care giver.	\$50	\$100
4(1)(d)	Permitting a dog to damage public or private not owned by the owner or care giver of a dog.	\$50	\$100
4(1)(e)	Harboring or keeping a dangerous or vicious dog not in compliance with Part V of the Animal Control By-Law.	\$250	\$500
4(1)(f)	Permitting a dog owned or in direct control of the care giver to pursue, bite, or wound a person or animal on any private or public property.	\$200	\$400
4(1)(g)	Permitting his dog on any school ground or playground.	\$50	\$100
4(1)(h)	Permitting a dog on a non-designated parkland area with leash longer than six feet or not in direct control of the owner.	\$50	\$100
4(1)(i)	Permitting a dog to upset waste receptacles and scattering the contents in or about a street, lane or other public or private property not belonging to the owner.	\$50	\$100
6(1)	Keeping in excess the prescribed number of dogs or cats.	\$100	\$200
8(2)	Permitting livestock to run at large.	\$250	\$500
9(1)	Harboring or keeping a restricted animal as defined in the by-law on a property without permission of Council.	\$250	\$500